



Original: **English**

No.: **ICC-01/05-01/08**

Date: **17 July 2018**

TRIAL CHAMBER III

Before: Judge Geoffrey Henderson, Presiding Judge
Judge Chang-ho Chung
Judge Kimberly Prost

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC
IN THE CASE OF
THE PROSECUTOR
*v. JEAN-PIERRE BEMBA GOMBO***

Public

Public redacted version of "Order in relation to advanced legal assistance fees"

Decision to be notified, in accordance with regulation 31 of the *Regulations of the Court*, to:

The Office of the Prosecutor

Ms Fatou Bensouda

Mr James Stewart

Mr Jean-Jacques Badibanga

Counsel for the Defence

Mr Peter Haynes QC

Ms Kate Gibson

Legal Representatives of the Victims

Ms Marie-Edith Douzima-Lawson

Legal Representatives of the Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparation**

**The Office of Public Counsel for
Victims**

Ms Paolina Massidda

**The Office of Public Counsel for the
Defence**

Mr Xavier-Jean Keïta

States Representatives

Amicus Curiae

REGISTRY

Registrar

Mr Peter Lewis

Defence Support Section

Victims and Witnesses Unit

Mr Nigel Verril

Detention Section

**Victims Participation and Reparations
Section**

Mr Philipp Ambach

Trust Fund for Victims

Mr Pieter de Baan

Trial Chamber III (“Chamber”) of the International Criminal Court (“Court”), in the case of *The Prosecutor v. Jean-Pierre Bemba Gombo*, having regard to Articles 64(6)(f), 67(1)(d) of the Rome Statute (“Statute”), Rule 21(5) of the Rules of Procedure and Evidence (“Rules”), and Regulations 83-85 of the Regulations of the Court (“Regulations”), issues the following “Order in relation to advanced legal assistance fees” (“Order”):

1. On 25 August 2008, the Registrar found Mr Bemba not indigent and accordingly, not eligible for legal assistance.¹
2. On 20 October 2009, the Chamber in its previous composition found that Mr Bemba, although noting his considerable wealth,² had no power at the time to dispose freely of his assets and thus temporarily lacked sufficient means to pay for his defence (“Decision on legal assistance”).³ For that reason, the Chamber ordered the Registry to provide advanced funding for Mr Bemba’s defence in the sum of € 30,150 per month.⁴ However, the Chamber cautioned that it had “every expectation that any monies advanced to the accused at this stage will be reimbursed to the Court”⁵ and ordered the Registry to secure a “legally

¹ Registrar’s Decision on the Application for Legal Assistance Paid by the Court Filed by Mr Jean-Pierre Bemba Gombo, 25 August 2008, ICC-01/05-01/08-76-tENG. This decision was upheld by the Presidency on 10 February 2009, Decision on the “Request for Review of the Registrar’s Decision of 25 August 2008 on the Application for Legal Assistance Paid by the Court, 10 February 2009, ICC-RoC85-01/08-3-Conf (a public redacted version of the Decision was filed on 25 February 2009, ICC-RoC85-01/08-4-Anx). *See also* [REDACTED]

² Decision on legal assistance for the accused, 20 October 2009, ICC-01/05-01-08-567-Conf, para. 94 (a public redacted version was filed on 26 November 2009, ICC-01/05-01-08-567-Red).

³ Decision on legal assistance, ICC-01/05-01-08-567-Red, paras 105, 106.

⁴ Decision on legal assistance, ICC-01/05-01-08-567-Red, para. 111(v). This sum changed in the following years to € 42,701 (*see* Decision on the Defence Application for Review of the Registrar’s Decision of 15 October 2010 on the Application for Adjustment of the Expenses and Fees of the Defence, 12 November 2010, ICC-01/05-01/08-1007-Conf, para. 39(i) (“Decision on the Defence Application for Review of the Registrar’s Decision”) (a public redacted version was filed on 7 December 2010, ICC-01/05-01/08-1007-Red); and subsequently to € 24,750 when the Trial stage ended (*see* ASP Twelfth Session 20-28 November 2013, Registry’s single policy document on the Court’s legal aid system, ICC-ASP/12/3).

⁵ Decision on legal assistance, ICC-01/05-01-08-567-Red, para. 110. The Chamber has continuously confirmed that the funds advanced to Mr Bemba do not constitute legal aid and must be repaid, *see* “Decision on the defence application to lift Order iii) of the “Decision on legal assistance for the accused” dated 20 October 2009, 4 November 2009, ICC-01/05-01/08-596-US, para. 16 (a public redacted version was filed on 19 November 2009, ICC-01/05-01/08-596-Red); Decision on the defence request for adjustment of fees advanced by the Registry pursuant to Trial Chamber III’s Decision on legal assistance for the accused of 20 October 2009, 23 September 2010, ICC-01/05-01/08-897-Conf, para. 16 (“Decision on the defence request”) (a public redacted

enforceable document, signed by the accused enabling the Court to be repaid out of the funds of the accused, as and when they become available.”⁶

3. On 23 October 2009, in accordance with the Decision on legal assistance, [REDACTED]:
[REDACTED]⁷
4. On 8 June 2018, the Appeals Chamber by majority reversed Mr Bemba’s conviction in this case, discontinuing the proceedings in relation to certain crimes, and acquitting Mr Bemba of all remaining charges brought against him.⁸
5. Noting that the Chamber in its previous composition intended the provision of funds to Mr Bemba to be administered “using the Court’s legal assistance scheme as the basis and model for such advancements of fees, save for the fact that the Registrar was to recoup these funds”,⁹ the Chamber considers the statutory provisions on legal assistance, in particular Rule 21(5) of the Rules, to be applicable in this case.
6. Pursuant to Rule 21(5) of the Rules, the Chamber may make an order of contribution to recover the cost of providing counsel, “[w]here a person claims to have insufficient means to pay for legal assistance and this is subsequently found not to be so.”
7. In light of the termination of Mr Bemba’s trial, and noting that Mr Bemba may have the direct and/or indirect power to freely dispose of certain assets,¹⁰ the Chamber

version was filed on 7 December 2010, ICC-01/05-01/08-897-Red); Decision on the Defence Application for Review of the Registrar’s Decision, ICC-01/05-01/08-1007-Red, paras 31, 33, 39(viii).

⁶ Decision on legal assistance, ICC-01/05-01-08-567-Red, para. 111(iv).

⁷ [REDACTED]

⁸ Judgment on the appeal of Mr Jean-Pierre Bemba Gombo against Trial Chamber III’s “Judgment pursuant to Article 74 of the Statute”, 8 June 2018, ICC-01/05-01/08-3636-Conf (a public redacted version was filed the same day, ICC-01/05-01/08-3636-Red).




⁹ Decision on the defence request, ICC-01/05-01/08-897-Red, para. 16; *see also* paras 17, 26, 28.

¹⁰ *See* [REDACTED]. *See also* Regulation 84(2) of the Regulations.

INSTRUCTS Mr Bemba to repay the € 1,886,736.87 advanced to him by the Court,¹¹ and direct further communication with respect to the repayment, if any, to the Registry;

SUSPENDS its orders to advance legal assistance fees to Mr Bemba.¹²

Done in both English and French, the English version being authoritative.

 <hr/> Judge Chang-ho Chung	 <hr/> Judge Geoffrey Henderson	 <hr/> Judge Kimberly Prost
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Dated this 17 July 2018

At The Hague, The Netherlands

¹¹ The figure constitutes the total amount of debts as at 30 June 2018.

¹² Decision on legal assistance, ICC-01/05-01-08-567-Red, para. 111(v); Decision on the Defence Application for Review of the Registrar's Decision, ICC-01/05-01/08-1007-Red, para. 39(i); including any payments subsequently advanced on the basis of these two orders. In this context the Chambers notes that, according to the Registry, a sum of €24,750 is currently advanced at the end of each month for the recurring costs of the Defence team.